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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 B&G Foods North America, Inc.,
12 Plaintiff,

13 v.

14 Kim Embry and Environmental Health
15 Advocates, Inc., acting as enforcement
16 representatives under California Proposition 65
17 on behalf of the State of California,
18 Defendants.

No. 2:20-cv-00526-KJM-SCR
ORDER

19 Defendants Kim Embry and Environmental Health Advocates, Inc. request the court seal a
20 document in support of their motion for summary judgment. *See generally* Seal Req. Notice,
21 ECF No. 194. Plaintiff has not opposed the request.

22 There is a strong presumption in favor of public access to court records. *See Phillips v.*
23 *Gen. Motors Corp.*, 307 F.3d 1206, 1210 (9th Cir. 2002). However, “access to judicial records is
24 not absolute.” *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006). For
25 documents filed with a dispositive motion, such as a motion for summary judgment, a request to
26 seal can be granted only if the moving party offers a “compelling reason” to keep the information
27 in question from the public. *Ctr. for Auto Safety v. Chrysler Group, LLC*, 809 F.3d 1092, 1096–
28 97 (9th Cir. 2016) (quoting *Kamakana*, 447 F.3d at 1179); *see also Xie v. De Young Properties*

1 5418, LP, No. 16-01518, 2018 WL 3241068, at *2 (E.D. Cal. July 2, 2018). The party seeking to
2 seal must “articulate compelling reasons supported by specific factual findings, that outweigh the
3 general history of access and the public policies favoring disclosure, such as the public interest in
4 understanding the judicial process.” *Kamakana*, 447 F.3d at 1178 (internal marks and citations
5 omitted). The compelling-reasons standard applies even if a document was previously filed under
6 seal or was covered by a generalized protective order, including a discovery phase protective
7 order. *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003).

8 Here, defendants seek to seal, in its entirety, a document that contains excerpts of a
9 deposition transcript. Defendants do not argue the deposition excerpts are confidential, but
10 plaintiff does. Seal Req. Notice at 2. The court previously denied defendants’ request to seal
11 without prejudice to a renewed request that specified why sealing was warranted. *See* Prior Order
12 (July 29, 2024), ECF No. 193. Now, in this renewed request, defendants include a supporting
13 declaration from plaintiff’s counsel. *See* David H. Kwasniewski Decl. (submitted for review in
14 camera). According to plaintiff’s counsel, the compelling-reasons standard is met, and the entire
15 document should be sealed, because the “testimony reveals commercially sensitive and trade
16 secret information.” *Id.* ¶ 7 (on file with court). Specifically, plaintiff’s counsel states the
17 deposition reveals information such as “the formulation or ingredients in B&G Foods’
18 products[.]” *Id.* ¶ 6.

19 While the status of information as trade secret is generally found to constitute a
20 compelling reason to seal, *see Kamakana*, 447 F.3d at 1179 (citing *Nixon v. Warner Commc’ns,*
21 *Inc.*, 435 U.S. 589, 598 (1978)), here the court finds the request is overbroad. The request seeks
22 to place a blanket seal on approximately fifty pages of deposition transcript, much of which does
23 not appear to contain any “commercially sensitive and trade secret information.” Accordingly,
24 the request to seal is denied without prejudice. *See, e.g., Clay v. CytoSport, Inc.*, No. 15-00165,
25 2017 WL 10604136, at *2 (S.D. Cal. Mar. 8, 2017) (denying request to seal in part because “large
26 portions do not include any potentially trade secret information”); *Bunsow De Mory LLP v. N.*
27 *Forty Consulting LLC*, No. 20-04997, 2020 WL 7872197, at *2 (N.D. Cal. Aug. 7, 2020) (finding
28 similarly). Any renewed request to seal shall be filed within seven (7) days and specify which

1 pages and line numbers a party believes should be redacted and why. *See Berlanga v. Polaris*
2 *Indus., Inc.*, No. 21-00949, 2023 WL 2752483, at *2 (E.D. Cal. Mar. 31, 2023) (“It is not the job
3 of this court to laboriously examine documents and connect the dots to provide specific reasons
4 supporting requests to seal.”).

5 This order resolves ECF No. 194.

6 IT IS SO ORDERED.

7 DATED: August 14, 2024.

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CHIEF UNITED STATES DISTRICT JUDGE